



# Municipal Double Taxation in Maryland

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**D**ouble taxation exists (1) when a county and a municipality within that county provide similar services financed with property tax revenues, and (2) when the county does not provide those services within municipal corporate limits because the city or town already does so. In such cases, municipal property owners pay taxes to both the municipal and county governments for a service (or services) although they receive the service only from the municipality.

## Property Tax Setoffs

A property tax setoff compensates municipal taxpayers for double taxation by levying a lower county property tax rate — known as a property tax differential — for municipal property owners or by granting a direct payment — known as a property tax rebate — to the municipality.

## Legislative History

While laws addressing municipal-county double taxation issues in Maryland have been in place for many years, it was not until 1975 that the General Assembly enacted double taxation legislation that generally had statewide application. After failing to enact similar legislation in 1974, the General Assembly passed a measure in 1975 that permitted but did not require counties to offer a tax differential or a tax rebate for cities and towns that provided services in lieu of similar county services. However, through the use of legislative local courtesy, one-third of the counties were exempted from this legislation.

As a result of legislation passed over the next three years (1976-1978), all but one county was brought under the property tax setoff enabling authorization. In 1977, legislation passed affecting only Anne Arundel County and Howard County (the latter of which has no municipalities). In those two counties the law established that the county "may not impose taxes upon residents of any incorporated municipality for services which that municipality provides for its residents." In 1978, the General Assembly also approved a bill requiring the Department of Fiscal Services to prepare an annual report reviewing the progress of counties in establishing tax setoff systems.

Legislation enacted in 1982 required all county governments to meet and confer annually with municipal governments within their jurisdictions to determine whether double taxation existed.

It was not until 1983 that the General Assembly enacted a law requiring a county to provide a property tax setoff for municipal property taxpayers if a municipality provides a service in lieu of a similar county service. The law took a two-pronged approach again as a result of local courtesy. For all but seven counties the law stated that, where double taxation was found to exist, a county may provide a property tax setoff. For the remaining seven counties (only five of which had municipalities) the law required that a county shall provide a property tax setoff where double taxation was determined to exist.

From 1983 to 1998, the law, as it affects all municipal governments, remained unchanged with the exception of legislation passed in 1986 that added an eighth county (Harford) to the "shall" provision. However, the section of law affecting only Anne Arundel County and Howard County was amended in 1985 to provide that these two counties could not impose a property tax within a municipality to pay for services that a city or town provides. As originally enacted, this section of law had applied to all county taxes — not just property taxes.

League sponsored legislation introduced during the 1997 General Assembly session initially would have moved all counties in the State to the shall category, would have set up guidelines and deadlines for annual municipal-county property tax setoff discussions, and would have established mediation mechanisms to address instances where a municipal government and a county government could not agree on tax setoff issues. As a result of significant opposition from the Maryland Association of Counties, the bill was completely amended to instead create a task force to study double taxation issues and to make recommendations to encourage cooperation between municipal and county governments with regard to property tax double taxation, other State and local tax and aid distributions, and service efficiency and duplication.

After strong encouragement from General Assembly members of the newly created task force to come to an accommodation on these issues, the Maryland Municipal League and the Maryland Association of Counties agreed to compromise legislation which was introduced and passed during the 1998 session of the Maryland General Assembly.

Finally, the General Assembly enacted a bill in 1999 to add Frederick County to the list of counties that must provide property tax setoff when a municipality in the county provides services in lieu of similar county services. Frederick County became the ninth county included under the shall provision of Maryland's double taxation law.

### 1998 Amendments

The law immediately prior to the passage of MML's prior legislation in 1998 mandated that all Maryland county governing bodies must meet and confer with their municipal governing bodies concerning the issue of double taxation once each year. Eight counties (only six of which had municipalities) were required to provide a property tax setoff if it could be demonstrated that one was warranted. Those counties included Allegany, Anne Arundel, Baltimore, Garrett, Harford, Howard, Montgomery and Prince George's. The law stated that the remaining 15 counties may provide, but were not required to provide, a

property tax setoff if it could be demonstrated that one was warranted. Ten of these 15 counties gave some level of double taxation relief in as recently as Fiscal Year 2002, while six did not. The five counties with municipalities that granted no double taxation relief in 2002 were Kent, Queen Anne's, Somerset, Wicomico and Worcester.

With the exception of the requirement that a county governing body meet on an annual basis with municipal governing bodies within the county, these requirements remain unchanged. While the law as amended in 1998 retained the requirement that county and municipal governing bodies meet to discuss the county property tax rate within munic-

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### Double Taxation Sidebars

MML Past President and Attorney Jack Gullo joined Hagerstown Finance Director Alfred Martin and Takoma Park Community and Government Liaison Suzanne Ludlow in discussing with MML convention attendees the legal background addressing double taxation in Maryland and tips on negotiating property tax setoffs for their communities. Among their advice were the following:

- This is a provocative issue among Maryland local governments. Where property tax setoffs are merited but not granted, towns are subsidizing county taxpayers.
- Establish a formal consultation process for negotiating double taxation issues with county officials.
- This is a very complicated subject. Before meeting with county representatives, you need to do your homework to be adequately prepared. You need to know every detail of your municipality's budget and service provision to properly negotiate.
- Understand how your tax setoff is calculated.

- Because of the complexity of the issues and the process involved, you need to have people who work day-to-day on services for which property tax setoffs are sought.

- Your municipality needs a written legal document that sets out how your tax differential or tax rebate is determined. If you don't have a written formula, it makes a double taxation setoff an easy target when county budget cuts are needed.

- If there are multiple municipalities in your county, it's important to work together. A unified voice improves the strength of your position in negotiations with the county.

- The process of negotiating a property tax setoff is not generally easy and it's not generally quick.

- Be forthright in your negotiations. Build trust. Recognize the political realities. If you want other things from your county, trade-offs may be necessary.



ipalities, the requirement that this be done annually was deleted.

Instead the law now sets out procedures by which a municipality may request and negotiate double taxation relief from the county and be guaranteed at least a minimum level of response from the county. The law however leaves latitude for a municipality and a county to establish different terms for negotiations, calculations, and property tax offset approval where both parties agree to alternative approaches. The law also provides the county with the discretion to grant a tax setoff to a city or town that fails to make a request as prescribed in the 1998 amendments.

Under the bills passed in 1998 (Senate Bill 113 and House Bill 216), a municipality that wishes to receive a property tax setoff may submit a proposal stating the desired level of tax offset for the coming year at least 180 days before the required approval date of the annual county budget. The proposal must include a description of the scope and nature of the services or programs that the municipality provides in lieu of similar county services. It must also include financial records on municipal revenues and expenditures. Both submittals must be sufficiently detailed to permit an assessment of the similar services or programs.

Upon receipt of the municipal proposal and accompanying documentation, the county must promptly submit to the municipality financial records and other documents that detail county revenues and expenditures.

At least 90 days before the required annual county budget approval date, both the municipality and the county must designate individuals to meet and discuss issues relating to double taxation. This may be done jointly with other municipalities. The county may also request additional information that is reasonably needed to assess the need for double taxation relief; representatives of the municipal government must in turn provide the requested information in an expeditious manner.

Before or concurrent with the release of the county budget to the public, the county must submit a statement of intent to each incorporated city and town that has requested a property tax setoff. The county statement must include (1) an explanation of the level of the proposed setoff; (2) a description of the information or process used to determine the level of the proposed setoff; and (3) notification that, before the county budget is passed, municipal government representatives may appear before the county governing board to discuss or contest the level of the proposed property tax setoff.

Finally, the law guarantees that representatives of any municipality requesting a tax setoff will be afforded the opportunity to testify before the county governing board during normally scheduled budget hearings of the county. ■

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